FOR MYSORE STATE

L.A.D

No. 27—104,006—4-11-50.

LOCAL ADMINISTRATION **(1950) Department.**

MISCELLANEOUS **SERIES.**

G.O. NO. 2265

Dated 28th November 1950

[Despatch Abstract.]

PANCHAYAT - Sandur - (Bellary) - Supersession - Transitional provisions to Madras Act XXXV of 1949 - Amended.

From

Sri.T.Prabhakara Rao Naidu B.A.,
Inspector of Ml.Cls.&Local Boards, Madras.1.

To

The Secretary to Government,
Local Administration Department, Madras.

LOCAL ADMINISTRATION DEPARTMENT
23 MAY 1950
2131
SECRETARIAT, MADRAS

Roc.No.12116-50 H3 dated 19-5-50

Sir,

SUB: Panchayat Board - Sandur - Bellary District - appointment of Special Officer - clarification requested.

REF: Government memo No. 19061-49-10-B.L.A.dated 3-3-50

In para 2 of the above memo, Government have issued instructions to appoint a Special Officer to the Sandur Panchayat under the Madras Local Board Act 1920 pending reconstitution of the Panchayat Board by election. In ordering the appointment of the Special Officer a difficulty has arisen regarding the provision of the Act under which the appointment is to be made. Under the transitional provisions in schedule II of Act No.XXXV of 49 communicated with the Government memo, the members of the Sandur Municipality holding office immediately before 1-1-50 shall subject to certain provisions of the Act be deemed to be members of the Sandur Panchayat Boardion and from that date and the term of these members shall expire on a date to be fixed by Government. As a result of this there is an elected Board(defacto) functioning. The appointment of a Special Officer does not come in at this stage. Nor is the Board notified for appointment of an Executive Officer.

In the circumstances, I request that Government may be pleased to clarify the position and state the provision of the Madras Local Board Act under which the Special Officer for the Sandur Panchayat Board shou be appointed. I have consulted the Collector, Bellary and propose to appoint one Sri.P.S.Venkataramanappa present Executive Officer Kampli as Special Officer.

tpr-19-5

For Inspector.

L. A. Dept (H)

T. M. 2131-4-1HD '16-6-50

From the Secy to Govt.,
L. A. Dept
To the S.G.P.
Madras

issued. 80/19/6.
d. 19/6/50

Repealed d. 23/6/50

Sub:- Books & Publications - Madras Merged States (Laws) Act 1949 Copies.

Please supply urgently 2 copies of the Madras Merged States (Laws) Act-1949 (Madras Act XXXV of 1949) published in part IV B of the Fort St. George Gazette (Extraordinary) Dy 30-12-49

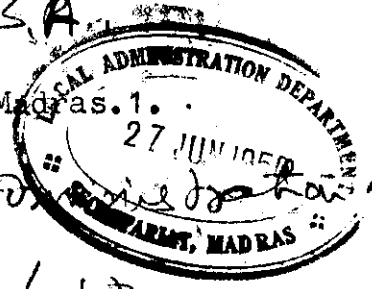
Reminded 23/6/50

reminded 2 days 26/6

For Secy

26252

From Sri T. Bakkaraya Rao Naidu B.A.
~~K.M. UNNITHAN ESQ., I.C.S.~~,
Inspector of Ml.Cls. & Local Boards, Madras.1.



To

The Secretary to Government, Local Administration Dept
Madras

R.O.C.No. 12116.50 H3 dated 24.6.50

Sir,

Sub: Panchayat Boards - Samoor Bellary Dt - appointment of Special Officer - Duties of the Spl Officer - clarification - requested

Ref: This Office Letter R.O.C No. 12116.50 H3 dt 19.5.50

I solicit early orders of Government in the matter.

for Inspector. 24 6 50

Spl
21.6.50
2/7/16

Local Admn Dept (HL)

Endt No 21314-24 Dated 4-7-50

Sub: Pt- Sandur (Bellary) - Appointment of special Officer.

Ref from the Inspr of Mu. Cls & Lbds Rc'No 12116-50-H3 dt 24.6.50.

The matter is under consideration

4/7/50

go: Jm I ✓ D. Dept 6/7/50

Note A copy of the Madras merged States Act- called for from the S.G.P. has not yet been received. The S.G.P was reminded on 30-6-50.

4/7/50

T.M.

A.A.D(11)

From

Supdt H.
A.A.D.

To

Supdt.
Mount Road

Sub:- Madras Hereditary Mahs (Laws) Act 1949 - Copies supply

Ref - TM's dts 19.6.50 and 30.6.50.

Please supply urgently 2 copies of M. Hereditary State (Laws) Act, 1949 (M.A. XXXV of 1949) to this Dept. If Octavo copies are not available Gazette copies of the same may be supplied.

25/7.

25/7.

Note - Supdt may ascertain that Octavo copies have been out of stock. Gazette copies of the same

From the Secy. L. Adv. 23/8

To The I. L. B.

Panchayat. Sandur (Bellary)
Appointment of a S.O. Your
letter Roc no. 12116-50 H3 & 19.5.50

Please report whether all the panchayats except Sandur in the Sandur area have been abolished with reference to the orders in para 2 of Govt. no. 19061/49-10B & 3.3.50 and furnish a copy of your proceedings in the matter.

It is observed from the report of the S.O. Sandur dated May 1949 that the Sandur M.C. was dissolved by an order of the late Govt. of Sandur in July 1947 i.e. even

Before the merger does that electing to the mtg did not take place at all subsequently. It is presumed that there was no elected body of the Sandon M.C. functioning immediately before 1-1-1950. Please confirm whether this presumption is correct.

CEO 28/8/50

(Issue at once & Cert for)

35509

POST COPY OF TELEPHONIC MESSAGE.

...

Madras 1,
28--8--1950.

From The Inspector of Ml.Cls.& Local Boards, Madras 1.

To The Secretary to Government,
Local Administration Department, Madras.

Sub:- Panchayat Board - Sandur - Bellary District - appointment of a Special Officer.

Ref:- Government Telephonic message dated 23-8-50 and 26-8-50.

...

I send with the post copy of this telephonic message a copy of this office notification Roc.No.12116-50-H3 dated 11-8-50. The fourteen panchayat boards referred to in the notification have been abolished. In respect of the other two panchayat boards viz., Murarpur and Taranagar, I have neither received replies of the panchayat boards to the notice of abolition nor their acknowledgment in token of having received the notice. I have therefore addressed the Presidency Postmaster, Madras to state whether the notice has been served to these panchayat boards and if so to send the certified copy of the acknowledgment of the presidents, panchayat boards -- concerned and on receipt of a reply from the Presidency Postmaster, Madras, action to abolish these panchayat boards will be taken. As regards the presumption of Government that there was no elected body of the Sandur Municipal Council immediately before 1-1-1950, no information is available in this office. The Special Officer, Sandur, has been addressed to furnish information on this point. I shall send a further report to Government as soon as the information from the Special Officer, Sandur is received.

for Inspector

29-8

L.F. 29-8-50.

NOTIFICATION BY THE Inspector of Ml.Cls. & Local Boards, Madras.
Sri T.Prabhakara Rao Naidu, B.A.,

Roc.No.12116/50-H3. Dated 11-8-50.

In exercise of the powers delegated to him by the Provincial Government under Section 233 of the Madras Local Boards Act 1920 the Inspector of Municipal Councils and Local Boards hereby directs that under section 5(2)(c) of the Madras Local Boards Act the notifications constituting the Panchayat Boards noted below by the Sandur state now merged with the Madras state shall be cancelled.

1) Laxmipur
2) Bujanganagar
3) Narasingapur
4) Ranjitpur
5) Vittalanagar
6) Narayanapur
7) Krishnapur.
8) Dowlatpur
9) Sushilanagar
10) Siddapur
11) Jayasinghapur
12) Venkatagiri
13) Dharmapur
14) Yeshwantanagar.

for Inspector.

To

The Superintendent, Government Press, Madras in duplicate with a telugu translation of the notification, for publication in English in the Fort St.George Gazette and in English and Telugu in the Bellary District Gazette.
To the President, District Board, Bellary.
" the Deputy Inspector, Central Range, Chittoor.
" District Panchayat Officer, Bellary.
" Collector of Bellary.
" District Registrar Bellary in triplicate for communication of a copy to the concerned Sub-Registrar.
" the Inspector-General of Registration.
Spare 3 (2 copies)
Copy to A4 for information.

pkr.14/8

(It copies)

From

Sri.T.Prabhakara Rao,Naidu ,B.A.,
Inspector of Ml.Cls.&Local Boards, Madras.1.

To The Special Officer, Sandur [illegible],
Bellary District.

R.O.C.No.12116/50-H3 dated 26-8-1950.

Sir,

SUB: Panchayat - Sandur State - Constitution of panchayat for Sandur Municipal area and abolition of existing panchayats.

...

Please let me know whether the Sandur Municipal Council was dissolved by an order of the late Government of Sandur in July 1947, even before the merger of the Sandur State with the Madras State, and whether the municipality was subsequently reconstituted and whether an elected body was functioning on 1-1-1950.

Have file with R.S.T. 1/2

for Inspector.

Copy to the Secretary to Government, Local Administration Department, Madras with reference to the Government telephonic message dated 23-8-50 for information.

L.P.26-8-50.

filed.

The Govt. may be kept reminded on 5-11-9-50

30/8/50 28/8.

31/8/50.

L.A.D(H) 15

Panchayat - Sandur - Appointment of Special Officer.

for 9 CF. C.No 35509/Ref - P.C. of T.M dt 28/8/50 from the Inspr. of Rel. Cls and L. Bds.

for 13 CF. C.No 35067 Copy of letter R.O.C. No. 12116/50-H3 dt 26/8/50 from I.L.B. to the Special Officer, Sandur.

Memo. 21314-2-H dt 20/9/50

The Inspr. of Rel. Cls and Local Boards is requested to expedite the report promised in the P.C of his T.M dt 28/8/50.

2. The Special Officer, Sandur is requested to furnish urgently the information asked by the Inspr. in his letter cited, if he has not already done so.

14/21/9

Sir in 9 CF

N.A 5/10/50

R.O.C. No 12116/50-H3 B 26-8-50

To
The I.L.B.
The S.O. Sandur
Bellary Dt.
(Para 2 only)

20/9/50

20/9

Cs 20/9/50

Note

The Supdt was reminded on 5/9/50 and again on 12/9/50. Evidently the he has not received the information asked by him from the Special Officer, Sandur. As the matter has been pending for a long time the Supdt and the S.O. Bell Sandur may both be reminded by a memo. The draft memo overleaf is submitted for approval

20/9/50

20/9/50

20/9.

To.

The Inspector of Local Administration,
Bellary.

Secretary to Government,
Local Administration Department,
Fort St. George.

Roc. No. 12116-50.H3 Dated 5-10-50.

Sir,

Sub:- Panchayat - Sandur - Appointment of Special Officer.

Ref:- Government Memo No.21314-2H-L&A. dated 20-9-50 & Reminder dated 5-9-50 and 14-9-50.

...

Information whether there was any elected body of the Sandur Municipal Council functioning immediately before 1-1-1950 has been called for from the Special Officer, Sandur state and the Collector of Bellary. I shall send a report to Government as soon as the replies from the Special Officer, Sandur state and the Collector of Bellary are received.

For Inspector.

K.H.6-10

L.A.D(1) 6/10/50

9/10/50

9/10/50

10/10/50

43646

From

Sri.T.Prabhak

Inspector of Ml.Cls.&Local Boards.Madras.1.

To

The Secretary to Government,
Local Administration Department, Madras.

Roc.No. 12116-50-H3 dated 28-10-50

Sir,

SUB: Panchayat - Sandur (Bellary District)Appointment of Special Officer.

REF: Government memo No.21314-2-H.L.A.dated 20-9-50

I enclose a copy of the letter of the Special Officer Sandur panchayat board RC.No.219-50 dated 16-10-50 along with a copy of the enclosure referred to therein. It is stated that there was no elected body of the late Sandur municipal council functioning immediately before the 1st January 1950. If so, there seems to be no difficulty in appointing a special officer to the Sandur Panchayat Board. I solicit orders of Government.

For Inspector.

tpr-30-10

Copy of letter RC.219-50 dated 16-10-1950 from the Special officer, Sandur to the Inspector of Local Boards, Madras.

SUB: Panchayat - Sandur state - constitution of panchayat for Sandur municipal area and abolition of existing panchayats.

Ref: Your Roc.No. 12116-50-H3 dated 26-8-50 and reminders thereon dated 20-9-50 and 5-10-50(E.R.enclosed)

The Sandur municipal council was dissolved by the late Government in G.O.C.No.Medl.10(H.R.114)dated 1-7-1947(copy enclosed) and it was not subsequently reconstituted. According to the abov G.O. of the late Government the Karma Sachiv was in-charge of the Municipal administration.No elected body was functioning on 1-1-50. After the abolition of Karma Sachiv's post the General secretary was in charge of the municipality till 31-12-49.

--True copy--

Copy of G.O.No.Medl. 10(H.R.114) dated1st July 1947 State Secretariat Sandur.

Sub: Sandur Town municipality reconstitution of.

The Present municipal council, Sandur was constituted under G.O.No.Medical C.10(H.R.24A) dated the 12th May 1945. It is an entirely nominated body as all the members thereof are nominated by Government.

2.It is observed that section 6(b)of the Sandur minor municipalities Act-III of 1944 lays down that

i)the number of elected councillors shall not be less than two.thirds of the number of councillors.

ii)of the nominated councillors, the salaried servants of Government, if any, shall not exceed one/half.

3.The present constitution is therefore opposed to the provisions of the municipalities Act and has also no proper representation people for the reason that it is a wholly nominated body.

4.With a view to remedy this defect Government feel and direct that the present municipal council which came into being by

p.t.o.

G.O.No.Medl. C.10(H.R.24A)dated the 13th May 1945 be dissolved as it was not properly constituted in accordance with the provisions of the Municipal law and be reconstituted with least delay and strict observation of the provisions of law and that during the interim period the Karma Sachiv be in sole and direct charge of the municipality.

5.Before the municipality is re-constituted the Karma sachiv should prepare the receipts and expenditure budget of the municipality on the basis of a municipal Town of 5000 population in Mysore and actually put the budget in working order. As per standing orders the budget of the municipality should form an appendix to the state budget.But although more than three years have passed since the passing of such order, the treasury has not taken steps to include the municipal budget as an aprendix to thestate budget.

--True copy--

For Inspector.

tpr-30-10

30/10/50

44734

LOCAL ADMINISTRATION DEPARTMENT
7 -NOV 1950
SECRETARIAT, MADRAS

POST COPY OF TELEPHONIC MESSAGE.....DATED:..4-11-50.

From the Inspector of Ml.Cls. & Local Boards, Madras.

To the Secretary to Government, Local Administration Department.

Sub:-Panchayat Boards - Sandur - Bellary District - abolition of.
Ref:-Government Telephonic Message, dated 4-11-50.

Murarpur and Taranagar Panchayat Boards have been abolished in this office notification Roc.No.12116/50-H3, dated 20-9-50.

for Inspector. 6/11/50

pkr.6/11

AM 6.11.50

L.A.D.(P)

PANCHAYAT - Sandur (Bellary) - Supersession - Transitional provisions to Madras Act XXXV of 1949 - Amended.

28/11 FP 4194

From the Inspr. of Ml. Cls. and Local Boards,
Roc.No.12116/50-H3 dated 19-5-1950 and 28.10.50

O R D E R (Ms) 2265 Dated 28-11-50

The appended notification will be published in the Fort St. George Gazette.

2. The Inspector of Ml. Cls. and Local Boards is requested to make the appointment of Special Officer to the Sandur Panchayat, after the publication in the Fort St. George Gazette of the notification referred to in para 1 above.

Cs 10/11/50

F 10.11.50

To the S.G.P. for publication of the notification in Part I-A of the F.S.G.G. (Para 1 only)
" " Inspr. of Ml. Cls. and Local Boards.
" " Collector of Bellary.
" " Legal Department.
" " Public (Political) Dept.
} in full

2 s/cs.

APPENDIX

Notification.

In exercise of the powers conferred by sections 14(3)(b) (read with section) ~~and section~~ 15 of the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949), His Excellency the Governor of Madras hereby makes with effect on and from the first day of January 1950, the following amendments to the transitional provisions in the Second Schedule to the said Act:-

1--13

Amendments.

In ~~paragraph~~ rule 2 of the said Schedule -

(1) for clause (a), the following clause shall be substituted, namely:-

"(a)(i) the Sandur municipality shall be deemed to be a panchayat superseded on and from the first day of January 1950 under section 45-A of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920), till such date as may be fixed by the State Government;

(ii) the State Government shall have power from time to time to advance or postpone the date fixed under clause (i) for the expiry of the period of supersession and fix another date in lieu thereof; and

(iii) the provisions of section 45-A(5) of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920) shall apply to the Sandur panchayat, so far as may be, in regard to the exercise and discharge, during the period of supersession, of all or any of the powers and duties of the panchayat and of its president, including where the president is also the executive authority, his powers and duties as such;" and

(2) in clause (b), for the words "the president of the Sandur municipality and of every panchayat,"

the words "the president of every panchayat," shall be substituted.

Cs
10/4/50

1/10/1950

No.43. OPINION.

Sub: Madras Motor Vehicles Taxation Act, 1931 - Provisions-Opinion.
Ref: Memorandum No.27589 Transport III/50-3 dated 25-8-1950 Home Department.

Sections 4 and 5 of the Madras Motor Vehicles Taxation Act 1931 provide for taxes being levied on motor vehicles not exceeding the maximum rates specified in schedules II and III of the Act. Section 17 of the Act empowers the State Government to amend schedules II and III by rules made with the approval of the Legislative Assembly. The State Government is thus given power to modify the schedules. In other words, power is given to change a portion of the statute itself. To modify or alter a statute is to perform a legislative act. To authorise another body to do that amounts to investing that body with legislative powers. It is a settled principle of constitutional law that the power conferred on a legislative authority cannot be delegated by it to any other authority. The legislation may be conditional or contingent, its taking effect being made to depend upon the determination of facts and conditions by an outside authority. A mere non-legislative function may also be delegated. It is in my view no possible to regard section 17 as an instance of conditional legislation or mere delegation of a non legislative or administrative function. It is really delegation of legislative power or legislative delegation and as such, invalid. The decision of the Federal Court in Jitendranath Gupta vs. The Province of Bihar (reported in XII F.L.J.R. 225) and that of our own High Court in re: Kalyanam Veerabhadrayya (reported in 1949 II M.L.J. 663) fully support the above view I have taken.

For the reasons stated above, section 17, is in my opinion invalid and the Act has to be suitably amended for enhancing the maximum rates specified in schedules II and III.

(Sd) Advocate General (12-10-50)

/True Copy/ John & Row

Madras.
12-10-1950.

State Counsel.

C.No.19036/50

Legal Department

ACTS - The M.C.M. McD.M. and M.L.B. Acts - Amendment of Schedules.

Can we not act under section 305 D.M. Act and the provisions analogous to it in the other Acts?

Have we or the Advocate-General held that these provisions are invalid?

K.V.R. 6-12-50.

The question has not arisen in respect of the provisions referred to above, but in respect of section 17 of the Madras Motor Vehicles Taxation Act - Please see this Department's notes on pages 5-6 n.f. and 12 n.f. and the Advocate-General's opinion on page 6 c.f. in the linked file.

K.R.
14-12-50.

The Advocate-General's opinion in the linked file refers to Schedules fixing the maximum and minimum limits of taxation on motor vehicles. A power to increase a tax is not ordinarily delegated to the Executive. The Advocate-General's opinion may therefore be defended.

I do not know whether we should consider the Advocate-General as laying down that the Schedule to an Act can only be amended by a legislative enactment, irrespective of the subject-matter to which the Schedule relates. On that view, all the amendments we have previously made in the Schedules will have to be specifically validated, or at least the Schedules as they now stand - with such modifications, if any, as we think fit - will have to be re-enacted. Otherwise, the legal position will not be secure.

It seems to me that we can argue the matter this way. A power to make rules can be validly delegated. In the case of certain Schedules to the District Municipalities, City Municipal and Local Boards Acts, the Legislature considered that the matter was too important to be left to the unfettered discretion of the Executive Government, but wished that its (Legislature's) specific approval should be obtained. The delegation is therefore only of subordinate legislative

power and will not be invalid. The result of any other view will be to invalidate numerous provisions of this kind.

For the present, we may - I submit - proceed on the view that our previous procedure was not erroneous. On receipt of the Advocate-General's opinion, if it is adverse to the correctness of the present procedure, the question may be further considered. The matter is very important and it is desirable to ascertain the views of the Government of India also before finally deciding on the action we should take in regard to this matter.

L.A. Department may see before this goes back to Health.

K.V.R.
18.12.50 L.A./Health Dept.

PROCEEDINGS of the Inspector of L.Cls.& Local Boards, Madras 1.
SRI K.PRABHAKARA RAO NAYUDU B.A.

Sub:-Rajagopalacharulu (Sri) A. - Executive Officer - Hadagalli Panchayat Board -Bellary District - appointed as Special Officer of Sandur Panchayat Board.

Read:- Govt.Memo.No.19061-49-10-B L.A., d/3-3-50.
G.O.Ms.No.2265 L.A., dated 28-11-50.
From the D.Collector, Bellary, letter No.180/51 d/31-1-51.

R.O.C.No.71837-50-H4 dated 5-2-1951.

O R D E R.

Under sub-section (5) of section 45-A read with section 45(3) of the Madras Local Boards Act, the Inspector of Municipal Councils and Local Boards hereby appoints Sri A.Rajagopalacharulu, Executive Officer, Hadagalli Panchayat Board, Bellary district as Special Officer of Sandur Panchayat Board in the same district with effect from the date of taking charge. He is directed to hand over charge of the office of the Executive Officer, Hadagalli Panchayat Board to the President, Panchayat Board, Hadagalli and proceed to the new station expeditiously. He will take charge of the office of Special Officer, Sandur Panchayat Board from the present Special Officer, Sandur Panchayat Board. He will exercise powers, discharge the duties and perform the functions of the panchayat board and of its President except the power under rule 5(4) of schedule IV and the power to hear appeals (taxes and others) which shall be exercised by the District Panchayat Officer, Bellary.

The President, Panchayat Board, Hadagalli, Bellary district is requested to relieve Sri A.Rajagopalacharulu and to be in-charge of the office of the Executive Officer, Hadagalli Panchayat Board till a substitute is posted.

Sri A.Rajagopalacharulu as Special Officer of Sandur Panchayat Board will draw from the funds of the Sandur Panchayat Board the same rate of pay and allowances as hitherto drawn by him.

Under proviso to rule 6 of schedule IV to the Madras Local Boards Act, the District Panchayat Officer, Bellary shall determine the tax payable by the Special Officer, Sandur Panchayat Board.

for Inspector.

To Sri A.Rajagopalacharulu, Executive Officer, Hadagalli Panchayat Board, Bellary district.
To the President, Panchayat Board, Hadagalli, Bellary District.
" Special Officer, Sandur Panchayat Board, Bellary district.
" Collector of Bellary.
" District Panchayat Officer, Bellary.
" President, District Board, Bellary.
Copy to the Deputy Inspector of Local Boards, Central Range.
" Examiner of Local Fund Accounts, Madras.
" Secretary to Government, Local Administration Dept., Madras.
" A section, H3, H4 and J1.
Spare 1.
L.A. 5-2-51.

L.A. 5(H)

May be filed with G.O. No.2265, L.A., dated 28-11-50 at (P).

9/2/51

9/2/51

PANCHAYAT ~~S~~ - Sandur (Bellary) - Appointment of Special Officer.

J/374 Read: Memo.No.19061-49 10-B dated 3/3/50.
From the Inspr. of Ml. Cls. & L.Bds., Lr. No.Roc 12116-50 H3 dated 19/5/50.
P1 C

It is observed from the report submitted J/15-16 C by the Special Officer, Sandur in May 1949 regarding administration of the Sandur Municipality that the Sandur Ml. Cl. was dissolved by an order of the late Government of Sandur in July 1947, i.e. even before the merger and that elections to the municipality were not subsequently held. Hence, no elected body was functioning immediately before the 1st January 1950.

Rule 1 2. The Mplty. has become a panchayat under the M.L.B.Act from 1/1/50 in virtue of the transitional provisions ~~of~~ in the II Schedule to the Madras U/12-13 XXXV of 1949. The question for consideration now is whether it is possible to appoint a S.O. to administe ~~take~~ the panchayat until elections are held. It seems that as the mplty. has become a panchayat - under the M.L.B.Act for the first time from 1/1/50, it can be deemed to be a panchayat newly constituted for the first time under the M.L.B.Act for the purposes of section 240 of the Act, and rule 12 of the Schedule to Madras Act XI of 1930. Elections to this panchayat cannot be held until after the new M.L.A. rolls on the basis of adult franchise are prepared. There seems to be no alternative to the appointment of a S.O. under section 240 of the M.L.B.Act. The difficulty, however, is that in the absence of a notification under section 5 of the M.L.B.Act, it is not possible to compute the 6 months period within which elections should be held under section 240(2). Rule 12 of the Schedule to Act XI of 1930 may ~~have to~~ be availed of. ~~In fact~~, The difficulty of holding elections to the panchayat in the absence of an electoral roll will seem to make it possible

~~Govt~~ to bring the case under rule 12, ~~and~~ appoint a special officer under section 240 and direct that, under rule 12 he will exercise the powers, discharge the duties and perform the functions of the Sandur Pt. Bd. until election of members and of the President ~~is over~~ until a president is elected.

Legal may see prior to Circulation.

Cer
1/8/50

Sec

F
2.8.50

Legal

L.A No. 21314H/50.
21/8/50.

ASSISTANT SECRETARY
12396.
3 AUG 1950
LEGAL DEPARTMENT

LEGAL DEPARTMENT.

Rule 12 of the transitional provisions in the Sch. to the M.L.B (Amendment)Act,'30 has no application in this case as there is specific provision in regard to it in Madras Act XXXV of 1949. The provisions of the M.L.B Act,1920 as extended to the State will be subject to the transitional provisions in the Second Schedule to the Madras Merged States(Laws)Act,1949-see s14(3)(a)of the Act. Moreover, the rules in the said Second Schedule can be modified by Govt. It will, therefore, be appropriate to invoke powers under s14(3)(b) and s15 of the Madras Act XXXV of 1949 instead of under rule12 of the M.L.B (Amendment)Act to remove the difficulties in question and issue the necessary orders or to suitably amend the rules in the Second Schedule to M.A.XXXV of 1949.

Legal No. 12396/50
5.8.50

U/5

LOCAL ADMINISTRATION DEPARTMENT
12396
7-AUG 1950
SECRETARIAT, MADRAS

U/546

5/8.
L.A.

L.A.D.(H).

Please see the Legal Dept. note above. As suggested by them a notification may be issued under section 14(3)(b) and section 15 of Madras Act XXXV of 1949. It may be provided in the proposed notification that Sandur panchayat shall be deemed to have been superseded on and from the

U/546.

A. Sec. A. 7/8/50

first day of January 1950, till such date as may be fixed by Government. Incidentally, power may be taken to postpone or advance the date for the expiry of the period of supersession so as to enable Government to bring the reconstitution of the Sandur panchayat on a line with the reconstitution of other panchayats.

2. The Inspector has stated that all the other panchayats in the merged area have since been abolished in accordance with the instructions in para 2 of Memo No.19061/49-10B dated 3-3-50.

3. A draft order is submitted. It may be sent to Legal U.O. for scrutiny of the draft notification before circulation.

*. After issue of the amendments in the draft, a notification will be issued under para 2(a), (i) of the Second Schedule to the Act as amended, fixing the date of expiry of the period of supersession of the Sandur Panchayat

Cr
10/11/50

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L.A. No.21314H/50-3
10/11/50

Legal

Legal Department.

ASSISTANT SECRETARY 17829 11 NOV 1950 LEGAL DEPARTMENT

The slight alterations indicated in red ink on the draft notification may be made.

10/11/50

Legal No
17829/50-1
18-11-50

LOCAL ADMINISTRATION DEPARTMENT 46344 SECRETARIAT, MADRAS

18/11/50

L.A.D.(H)

Under the Madras Merged States (Laws) Act, 1949, the Sandur municipality has become a panchayat from 1-1-1950. It was reported that the 16 other panchayats in the merged area were not working properly and the Inspector was asked to abolish them. The Inspector has accordingly abolished these 16 panchayats.

U/12
J/26 cf.
J/37 cf. para 2
Hm 1.iv.1:3 cf.
J/15 cf. para 2

The Sandur municipal council was dissolved by an order of the late Government of Sandur in July 1947, i.e., even before the merger and elections to the municipal council were not subsequently held. Hence no elected body was functioning immediately before 1-1-1950. The Inspector proposed to appoint a S.O. to the Sandur panchayat under the M.L.B. Act, 1920, pending reconstitution of the panchayat by election. It was suggested by this Department that the appointment might be made under Rule 12 of the Transitional Provisions in the Schedule to the Madras Local Boards (Amendment) Act, 1930 as usual in the case of newly constituted panchayats. Legal have stated that the above provision has no application in this case and that it will be appropriate to amend the Second Schedule to the Madras Merged States (Laws) Act, 1949 to remove the difficulty. The draft order below which has been scrutinised by Legal embodies the above proposal.

Hm 19 cf
Hm 1-12 cf.
Hm 2 cf

It is proposed to accept the suggestion of legal and amend the II Schedule to the Madras Merged States (Laws) Act

It may issue after approval by Hons (LA) and (Ed L)

CE 22/11/50

Sec

f 23/11/50 Hm(LA) 25/11

Hm (Ed L)

G.O. No. 2265 L.A. dt 28-11-50

Extracts from note file of Home Department.

Sub: Madras Motor Vehicles Taxation Act, 1931 - Provisions.

xx xx

LEGAL DEPARTMENT

~~(R! at the botton of page 11 ante.)~~ - In view of the opinion of the Advocate General at page 27-28 ~~6 c.f.~~ it will be necessary to undertake legislation to legalise the existing position as well as to validate the collection of taxes on motor vehicles in the past with reference to Schedules II and III to the Madras Motor Vehicles Taxation Act, 1931, as amended from time to time by rules made under section 17 of that Act. The legislation will fall under Entry 57 of the State List, viz., "Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III". As it has been provided in the Schedules that the tax should be collected in the case of motor-cycles on the basis of horse power, in the case of goods vehicles on the basis of laden weight, in the case of buses on the basis of their seating capacity, etc., the legislation may also be said to fall within the scope of entry 35 of the Concurrent List, viz., "Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied". Consultation with the Government of India with reference to Secretariat Instruction 38 is therefore necessary.

K.R.
3-11-50.

The Government of India may be consulted.

2. There are similar provisions in other Acts, for example, the D.M., C. Ml. and L. Bds. Acts, which give Government power to modify or add to provisions contained in a Schedule to an Act, passed

by the Legislature. Such powers have been exercised on many occasions, and the exercise of the powers will be equally invalid in accordance with the A.G's opinion in the c.f. Action will therefore be equally necessary in such cases. L.A. also may see the file.

3. H.M. (E. & L.) should also see this case.

K. V. R
3/11/50.

49868

L. A. D (H)

The Second Schedule to the Madras Merged States (Laws) Act, 1949 was amended in G.O. Ms. 2265, L.A. dt. 28-11-50 with a view to making provision for the appointment of a Special officer to run the admn. of the Saudur panchayat pending its reconstitution after elections. In view of the A.G.'s opinion (Copy at p. 1 c/f.) section 14(3)(b) of the above Act conferring power on Govt to amend the schedule is ultra Vires and the action taken under that section is invalid. It therefore seems necessary to undertake legislation for amending the schedule. Legal may be requested to advise.

Through S in V.V kh 19/12/50
Sri [illegible] 12/12/50

L.A. u.o. 49868H/50-1
13/12/50

12/12/50
Vr. XII. 50

12/12/50

Legal

LEGAL DEPARTMENT

ASSISTANT SECRETARY 1997 14DEC1950 LEGAL DEPARTMENT

With reference to the note of L.A. above, their attention may be invited to the note of this Department in another file passed on to them with Legal u.o.No.19036-1, dated 18-12-1950.

Extract at 'C'

19/12/50

1) The considerations pointed out in the note at 'C' apply equally to Section 14 (3) (b) of the Madras Merged States (Laws) Act - 1949.

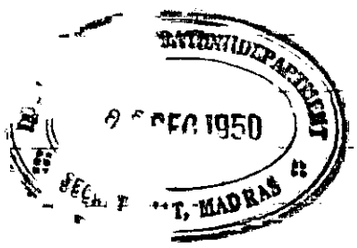
I agree. The decision pronounced by the ~~High~~ Supreme Court yesterday, declaring that the Bombay City Civil Courts Act provision vesting in the Govt the jurisdn to enhance the pecuniary limits of the jurisdn of the Court was valid, may perhaps contain some discussion of the limits within which the Legislature may ~~not be~~ delegate powers in regard to matters like those dealt with in this file.

XVII. 21/12/50

L.A. Dept

Legal No
1997/507
21/12/50

5-1044



L.A. (H)

In the extracts at 29-30 of Legal Dept's notes in another file, in the penultimate para ~~at p. 2 of 'C'~~, Legal advised ~~that~~ "we may proceed on the view that our previous procedure was not erroneous". They held that the considerations pointed out in their note at 'C' apply equally to this case. No further action is therefore necessary in this Dept. Regarding 'B' above, Legal will no doubt intimate to this Dept, if any further action in the matter ~~will~~ is found necessary on perusing the Supreme Court's judgement referred to. The papers may be ~~closed~~.

filed with Gen No 2265 L.A.G. 28-11-50

26/12/50 M

26/XII/50

26/12/50